

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14499 of SOME, Inc. (So Other Might Eat), pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to construct a temporary community service center in a R-5-A District at premises 4615 Benning Road, S.E., (Square 5352, Lot 815).

HEARING DATE: October 15, 1986

DECISION DATES: November 5 and 12, 1986

FINDINGS OF FACT:

1. The application, as originally advertised, indicated that the address of the subject premises was 4615 Benning Road., S.E. By memorandum received on October 10, 1986, from the D.C. Department of Consumer and Regulatory Affairs, the property was assigned a permanent address as 4609 Benning Road., S.E. The application was so amended at the public hearing.

2. The property is located on the west side of Benning Road between C Street to the north and Woodlawn Cemetery to the south, and is known as premises 4609 Benning Road, S.E. The property is zoned R-5-A.

3. The property is currently undeveloped. The applicant proposes to construct a two-story plus basement structure with a one-car garage. The proposed structure would be residential in appearance and contain approximately 2,840 square feet of gross floor area.

4. The surrounding area is generally developed with garden apartments for low and moderate income tenants. Woodlawn Cemetery is located to the south of the site.

5. The applicant proposes to use the premises as a community service center designed to provide direct services such as food, clothing, employment counseling, self-help and motivational counseling, educational seminars, and outreach programs for families and senior citizens in the immediate area.

6. The applicant organization is a private, non-profit ecumenical organization established in 1971 to provide hospitality, meals and supportive services such as counseling and medical and dental care to homeless and

destitute people in the District of Columbia. The applicant operates a number of social service programs at various locations in the District of Columbia. The applicant has been operating a program similar to that proposed for this site at a church located at 421 Alabama Avenue., S.E. for two years. The applicant has received no complaints regarding that operation. The main community service center operated by the applicant is located at 71 O Street ., N.W.

7. The Board is authorized to approve the use of the subject site for a temporary community service center created for the purpose of improving the social or economic well-being of the neighborhood as a special exception pursuant to Paragraph 3104.46 of the Zoning Regulations. Paragraph 3104.46 requires that the applicant demonstrate compliance with the following criteria:

8. The proposed facility will be separated from nearby residential properties by Benning Road to the east, Woodlawn Cemetery to the south and a twenty foot driveway to the north.

9. The proposed structure conforms to all the area requirements of the R-5-A District. No variance relief is required.

10. The hours of operation of the proposed facility are from 8:30 AM to 5:00 PM, Monday thru Friday. There will be occasional evening readings.

11. Based on its current operating characteristics at the Alabama Avenue facility, the applicant projects that approximately ten to fifteen persons will visit the premises per day with a maximum of twenty to thirty persons for special meetings or events. Meals service will continue to be provided at the O Street and Alabama Avenue facilities. There will be no meals program at the subject site. There will be some storage of canned goods on the premises for an emergency food distribution program.

12. The applicant is providing ten surface parking spaces on site to accommodate any vehicular traffic generated by the use. The applicant noted that the use is not likely to generate a demand for parking because the site is easily accessible by public transportation to residents of southeast Washington and further noted that the majority of its clients will be coming from the immediate area.

13. The building will house five to seven employees. Volunteers work staggered hours and only two or three volunteers are expected to be at the facility at any given time. No one will reside in the subject premises.

14. The applicant testified that the subject site was a desirable location for the proposed use because of the surfeit of social services available in that area of the city. The nearest comparable facility is the Fareast Community Service Center located at 5929 East Capital Street.

15. The applicant proposes to secure the structure with electronic burglar alarms, window bars and exterior lighting. The exterior lighting is arranged, so as to confine the rays of illumination to the site. The applicant has also communicated with the Sixth District Precinct to inform them of the plans for the proposed facility.

16. The Office of Planning, by memo dated October 6, 1986, recommended approval of the application for a period of three years. The OP was of the opinion that the applicant meets the standards set forth in Paragraph 3104.46 and is not likely to become objectionable to the neighborhood. The Board concurs with OP's recommendation.

17. By representative at the public hearing and letter dated November 4, 1986, Advisory Neighborhood Commission 7F requested that the Board leave the record open to allow the ANC additional time to solicit the views of residents in the neighborhood and to give the applicant an opportunity to meet with the ANC to discuss the following concerns:

- a. What will the property be used for if the use is discontinued after three years?
- b. Would subsequent use of the property permit a drug treatment program or residence for patients from St. Elizabeth's Hospital?
- c. What type of security is planned? Will someone reside on the premises?
- d. Is the Sixth District Precinct aware of the proposed use.
- e. What type of drainage will be provided?
- f. Will transportation services be provided for clients?

18. By letter received November 7, 1986, the applicant opposed the request to leave the record open and requested an expedited decision on the subject application. Upon review of the requests of the ANC, the applicant, and the transcript of the proceedings, the Board declined to leave the record open for additional material.

19. By letter dated September 18, 1986, ANC 7F, the adjacent ANC, supported the application because of the overwhelming need in the community for the services offered by the proposed facility.

20. The record contains two letters in support of the application based on the need for services in the area and the fine reputation of the applicant in providing such services elsewhere in the District of Columbia.

CONCLUSION OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order to be granted such relief, the applicant must demonstrate compliance with the requirements of Paragraph 3104.46 and that the requested relief can be granted pursuant to Sub-section 8207.2 as in harmony with the Zoning Regulations. The Board concludes that the applicant has met the required burden of proof.

Paragraph 3104.46 of the Zoning Regulations provides that the proposed use can be granted if in compliance with the following criteria:

- A. Such use is so located that it is not likely to become objectionable to neighboring properties because of noise, or other objectionable conditions.
- B. No structural changes shall be made except those required by other municipal laws or regulations.
- C. The use will be reasonably necessary or convenient to the neighborhood in which it is proposed to be located.
- D. It is not organized for profit and no part of its net income inures to the benefit of any private shareholder or individual.
- E. That any authorization by the Board to locate such community service facility shall be limited to a reasonable period of time but not exceed three years. The Board may renew such authorization.

The Board concludes that the proposed use is not likely to become objectionable to neighborhood properties because of noise or other objectionable conditions. The proposed structure is residential in appearance, no more than thirty persons will visit the site per day, and adequate parking is provided on the site to serve any vehicular traffic

generated by the use. The proposal is for new construction, therefore, the prohibition against structural alterations to existing premises is not applicable in this case. The use is not organized for profit and no part of its net income inures to the benefit of a private individual or shareholder. The proposed use is reasonably necessary and convenient to the neighborhood in which it is proposed to be located.

The Board further concludes that the proposed use will not adversely affect the neighborhood and can be granted as in harmony with the general purpose and intent of the Zoning Regulations and map. The Board concludes that the Advisory Neighborhood Commission has not met the requirements of section 108 of the Supplemental Rules Practice and Procedure before the BZA and, therefore, cannot be accorded the "great weight" to which it is entitled. Accordingly it is ORDERED that the application is GRANTED for a period of THREE YEARS from the date of this order.

VOTE: 4-0 (Carrie Thornhill, Paula Jewell, and William McIntosh to grant; Patricia Mathews to grant by proxy; Charles Norris not voting, not having heard the case.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: JAN 13 1987

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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